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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,757	06/21/2006	Burkhard Dick	DICK ET AL-2 PCT	8971
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COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576				
EXAMINER				
BOOTH, MICHAEL JOHN				
ART UNIT		PAPER NUMBER		
4158				
MAIL DATE		DELIVERY MODE		
10/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,757

Applicant(s)

DICK ET AL.

Examiner

MICHAEL J. BOOTH

Art Unit

4158

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 06/21/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Foldable capsular equatorial stabilizer ring".

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 6' and 8 in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 7 is objected to because of the following informalities: HEMA/MMA needs a space after it. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-7, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Paul et al. (US Publication 2004/0111151; hereinafter Paul).

Concerning claim 1:

Paul discloses a capsular equatorial ring (210) capable of being implanted in the capsular bag of an eye, and rests against the inside of the capsular bag [0040]. The ring is closed (figure 3) and has a number of foldable [0058] and stiff segments [0022 & 0023] that are arranged alternately [0023] in the peripheral direction.

Concerning claim 3:

Paul discloses a capsular equatorial ring with peripheral segments designed alternately as stiff PMMA and HEMA/MMA copolymer segments. [0013, 0017, 0022, & 0023].

Concerning claims 4-6:

Paul discloses a capsular equatorial ring where PMMA and HEMA/MMA segments (211) tapers radially and in the axial direction toward the segment center at least from the inside. (See figure 3).

Concerning claim 7:

Paul discloses a capsular equatorial ring having approximately 28% water content. [0042].

Concerning claim 11:

It is inherent that HEMA/MMA copolymer segments are impregnated with a medicament. As defined by the google define feature (define:medicament), a medicament is a substance for curing or healing and is the purpose of the capsular equatorial ring. Also, impregnate is defined as "infusing particles of one substance into the mass of another substance". Since multiple segments make up the ring, it is inherent that these segments are impregnated with a medicament.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paul as applied to claims 1 and 3 above, and further in view of Ghazizadeh et al (US Publication 2003/0109925; hereinafter Ghazizadeh).

Concerning claims 2, and 8-9:

Paul fails to disclose a capsular equatorial ring with a PMMA thickness of approximately 0.2 mm, width of the outer ring of approximately 0.7 mm, PMMA being approximately 0.5 mm wide and HEMA/MMA being approximately 0.7 mm wide. However, Ghazizadeh discloses a capsular equatorial ring where the width of the outer ring is approximately 0.7 mm (0.51 mm; [0058, 0060]). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Paul to optimize the width and thickness of the segments, including number of segments, and ring to allow the device to fit in the capsular bag. There is motivation to combine the two references as they are in the same field of endeavor.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paul as applied to claim 1 above, and further in view of McNicholas (US Publication 2004/0039446; hereinafter McNicholas).

Concerning claim 10:

Paul fails to disclose a capsular equatorial ring with a sharp-edged outer periphery. However, McNicholas discloses a capsular equatorial ring with a sharp-edged outer periphery [0011, 0026]. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Paul with McNicholas's sharp-edged to inhibit epithelial cell growth. There is motivation to combine the two references as they are in the same field of endeavor.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. BOOTH whose telephone number is (571)270-7027. The examiner can normally be reached on Monday thru Thursday, 8:00am - 4:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571)272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/07/2008
/M. J. B./
Examiner, Art Unit 4158

/Gary Jackson/
Supervisory Patent Examiner
Art Unit 4158
10/27/08